

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

Commission members present:

Chief Richard Carlson, Chairman
David Tomes
Susan Hamilton
Lula Howard
Donnie Blake
Marshall Abstain
Rick Storm

Commission members absent:

Yvonne Wells-Hatfield
David Proffitt

Staff Members present:

Dawn Warrick, Assistant Director
Theresa Senninger, Legal Counsel
Joe Reverman, Planner II
Jonathan Baker, Legal Counsel
Ann Cromwell, Management Assistant

Others Present:

Paula Wahl, Engineer Manager, Public Works
Pat Barry, MSD
Tom Pinto, Air Pollution Control District

The following matters were considered

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

CASE NO. 13644

Request

Change in zoning from R-4 Single-Family Residential to OR-3
Office/Residential

Project Name: Shelbyhurst
Location: 100, 310 & 312 N Whittington Parkway and
950 N Hurstbourne Parkway

Owner: University of Louisville
100 North Whittington Parkway
Louisville KY 40222

Applicant: Metro Planning and Design Services
444 South Fifth Street
Louisville, KY 40202

Representative/
Attorney: Frost Brown Todd, LLC
Glenn Price
400 West Market
Louisville, KY 40202
Louisville, KY 40202

Architect/Engineer: Pat Dominik
Sabak Wilson & Longo
315 West Market Street
Louisville, KY 40202

Project Size/Area: 189.6 acres
Jurisdiction: Metro Louisville
Council District: 18—Jon Ackerson
Case Manager: Joseph Reverman, Planner II

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

REQUEST

- Change in zoning from R-4 to OR-3 for a research and office park

Agency Testimony

Joe Reverman presented the case. This is a proposed change in zoning for Shelbyhurst on the U of L Shelby campus. This proposal was initiated by the Planning Commission as an area-wide re-zoning.

Normally with area-wide re-zoning a plan is associated with it; however, with this development there is a proposed general plan and the proposal by the applicant's representative is to attach binding elements to the development plan.

There is a boundary line approximately 20 ft on the north end which is in the City of Lyndon, so that portion of the property is excluded from this development.

This plan development has been proposed by U of L since 2001. The property to be developed on this site will be leased to private developers. Any portion of the property used by U of L is not required to be re-zoned. Since part of the property will be privately developed, the change in zoning is required.

The roadways have already been constructed. North Whittington Parkway has been constructed from Shelbyville road to Whipps Mill Road.

The adjoining property is currently zoned R-4. There are some sing-family residential properties to the west of this site in the City of Bellemeade which is along Whipps Mill Road on the west.

The northern site is zoned R-1 and used as a park with some recreational facilities. North Hurstbourne Parkway borders the site on the east along the commercial developments at the corner of Hurstbourne and Shelbyville Road.

A list of general requirements within the OR-3 zoning district and the Campus Form District is listed in the staff report.

Mr. Reverman showed photos of the site as well as photos of North Whittington Parkway, and Shelbyville Road. Photo of the Center for Predictive Medicine,

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Whipps Mills Road along with the newly constructed detention basin were also shown.

He stated that the proposal does appear to meet the guidelines and policies of the Comprehensive Plan. He said the proposed future development of the property meets the intent of the Campus Form District. In addition, the roadways and utility easements have already been constructed on the site.

Mr. Reverman said that the applicant made a good faith effort to protect the residential properties to the west of the site with an expansive buffer area and binding elements. The traffic appears to be the main concern with this proposal, and there is a binding element proposed that additional development on this property will require review by a committee of the Planning Commission, and the applicant will have to demonstrate compliance with the Land Development Committee at that time. Additional binding elements may be attached by the Planning Commission on this site.

He said that a new staff report has been provided today with additional binding elements by the City of Bellemeade in addition to the binding elements proposed by the applicant.

Metro Council will act on the request for a change in zoning and the Planning Commission, would make an action on the general development plan and binding elements.

The following spoke in favor

Glenn Price
Frost Brown Todd
400 West Market Street, Louisville, KY 40202

Burt Deutsch
200 South Fifth Street
Louisville, KY 40202

Patrick Dominik with Sabak, Wilson & Lingo
315 West Market Street
Louisville KY 40202

Summary of Testimony of Proponents

Glenn Price, Frost Brown Todd, 400 West Market Street, Louisville KY 40202 introduced his team and presented his case. He said that typically schools,

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

universities and colleges are permitted uses in the existing R-4 district. A re-zoning to OR-3 classification is required to allow the university to establish a research center and office park.

Mr. Price provided the background history of the site and said they have a proposal for the OR-3 site on the campus which was originally 232 acres when it was purchased from the Kentucky Southern College in 1969. Since then, the property has decreased in area with several dedications that the university has made.

In 1987, eight acres was dedicated for the right-of-way acquisition and associated drainage easements to Hurstbourne Parkway. That was dedicated to the Kentucky Transportation Cabinet.

In 1988, 23 acres was dedicated for a stormwater retention easement to MSD to serve an approximate 3200 acre watershed when virtually only 8 percent of the remaining area of the campus was served by it. Now the retention basin will serve the entire campus.

In the last two years, 2008 and 2009, fully 7700 linear feet of boulevard and roadways were constructed, prior to any development of this campus, at a cost of over ten million. Traffic relief has been provided at the intersection for the heavily traveled Shelbyville Road at Hurstbourne Parkway. Relief has also been provided from North Chadwick Road from Shelbyville Road to Whipps Mill and back through the City of Bellemeade.

Mr. Price further stated that all the new roadways that have been constructed within the Shelby campus are private roadways with public access. There are also public utility easements that will ensure that no Louisville Metro tax dollars will be used for future maintenance. Sidewalks and bikeways have been added to provide connectivity between Shelbyville Road and Hurstbourne Parkways, the academic core and Sawyer Park.

He further stated that there has been a reservation of a 120 foot landscape buffer area that immediately adjoins the City of Bellemeade which is, in essence, a contribution of about \$2,250,000 in land value over and above the planting costs.

There is the actual construction of the Whipps Mill detention pond to reduce runoff over and above the standard requirement to maintain pre-development conditions.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Burt Deutsch, 200 South Fifth Street, Louisville, KY 40202, talked about the history of the development. He said that through this development a source of revenue for the university could be created. There have been budget cuts which affected funds provided to the university.

He said they have conducted studies to include the preliminary planning and zoning study. A re-zoning study was handed out to the Commissioners.

Included in the history of the project, Mr. Deutsch said that the University of Louisville, as a state agency, entered into a partnership with the state agency of the Kentucky Transportation Cabinet.

The Kentucky Transportation Cabinet provided 5.7 million for a road system that would extend Whittington Parkway through the campus property over to Whipps Mill and also connect Hurstbourne Trace. In addition to the 5.7 million, he said they spent in excess of \$4 million for a total of over \$10 million to build the roadway system, which includes the bikeways and sidewalks for connectivity. Those bikeways and sidewalks will also be landscaped along the edges and landscaped along the medians and will be irrigated.

Mr. Deutsch said that they have met with neighbors, community groups, mayors, advisory groups and others throughout varying stages of development. The Center of Predictive Medicine has also held advisory committee meetings to explain their goals as one of the research components of the office park.

He continued, and stated that there have been various "board of trustees" resolutions at the University of Louisville. In 2001 they began addressing the development of the Shelby Campus property in order to convert it into a revenue-producing asset which will benefit the university. In 2005 the University of Louisville board of trustees recommended that there be a non-profit corporation for the development of the Shelby campus property.

They requested that there be a financial investment by the University of Louisville Foundation, and recommended the creation of a special ad hoc committee on Shelby campus.

In 2008 a board of trustees resolution dealing with the specific development, named the University of Louisville Development Company, which is an affiliate of the University of Louisville Foundation, as the master developer of this particular site before us today.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Mr. Deutsch further stated that in November of this year, the board of trustees passed the resolution requesting the Planning Commission to initiate the zoning map amendment process and requesting this public hearing on that zoning map amendment.

Patrick Dominik with Sabak, Wilson & Lingo, 315 West Market Street, Louisville KY 40202, talked about the planning and infrastructure activity that has happened on the property since August of 2008.

He showed a PowerPoint illustrative exhibit of the site which is a 189.6 acre parcel that they are asking to have re-zoned. It is bounded by Bellemeade, Shelbyville Road, Hurstbourne Parkway and Whipps Mill Road.

The roadway was designed as an extension of Whittington Parkway with gateway entrances at Hurstbourne and Whipps Mill. The roadway pattern was established to optimize the use of the property for office and research building sites.

The 189 acres also reserves 20 acres for use by the university as an academic core.

Mr. Dominik showed photos and aerial views to include the City of Bellemeade, Shelbyville and Hurstbourne Parkways, Whittington and the Whipps Mill detention basin.

The detention basin is contained within a 23 acre MSD drainage easement. It is a 3200 acre watershed that is being served, but only about 8 percent or about 15 acres of the subject site actually drained to that basin. A retention pond along Whipps Mill Road was constructed to handle the balance of stormwater runoff. Mr. Dominik began talking about transportation issues. He said that this is one of the most important issues related to this case. He said it was dealt with at length during the Hurstbourne transportation study and small area plan in 2006 and adopted by Metro Council in 2007.

Following the Hurstbourne transportation study, the Transportation Cabinet appropriated \$5.3 million, which was subsequently increased to \$5.7 million for roadway and associated infrastructure.

Mr. Dominik said that the agreement specifically cited that the department agrees that this is a worthwhile project that would increase vehicular flow and improve vehicular and pedestrian safety.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

He said that the traffic study has been updated in anticipation of a full build-out of the office and research park. The purpose of this study was to begin the model of the total development build-out anticipated in the year 2023.

Similar to the findings in the Hurstbourne Transportation Study and small area plan, the internal connectivity and alternative routes created by Shelby campus roadways maintains or helps the existing levels of service at each study area intersection. This study also included a signal warrant analysis for the new traffic light on Hurstbourne Parkway which is also a demonstrated need.

He said they also met several times with Metro Public Works and the Air Pollution Control District to review the previous studies. It was determined that additional study was required which focused on the Shelbyville Road, Hurstbourne Parkway intersection.

An initial development phase of 300,000 square feet of office use was programmed for year 2016 for modeling traffic and air quality impacts.

It was determined that the 2016 impact of the 300,000 square feet of office space caused little impact to the area in terms of traffic. In most cases, the level of service for each studied intersection was maintained.

Air quality was also addressed, and it was determined that based on the 2016 study period and 300,000 square feet, that CO emissions generated by the Shelbyhurst development will not exceed the one hour or eight hour standards for emission, as established by the National Ambient Air Quality Standards. The 2016 CO emissions are projected to decrease or remain the same.

After accounting for the reductions in traffic count, due to the economy, the intersection still exhibited, approximately, 10 percent fewer cars. This is attributed to the alternatives presented to the motorists who can now use Shelbyhurst streets.

As the development progresses the applicant has agreed to further study this corridor and provide additional traffic and air quality analysis beyond this initial phase.

Mr. Dominik talked about details and improvements. They include: 7000 linear feet of new roadway with landscaped central medians and street lighting; six foot bike lanes on both sides of the roadway; five foot concrete sidewalk on both

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

sides of the roadway; sidewalks on Whipps Mill Road and ten foot meandering parkway, with a pathway provided along Hurstbourne Parkway and links the academic core with the Center of Predictive Medicine. In addition new entrances on Hurstbourne Parkway have been provided to include one signalized entrance and one being a right in right out only.

He said that they have spent a lot of time addressing issues with the City of Bellemeade. He said they have provided a 120 foot landscape buffer with a six foot berm along that boundary line. It is about 3500 linear feet of property line.

He further stated that the Land Development Code requires 20 feet and they are providing 120 feet. They are planting 353 new trees along that buffer where only 100 trees are required. In addition they have planted 376 trees along the roadways.

Mr. Dominik talked about the drainage improvements made to manage stormwater runoff on the site. The stormwater pond has a permanent pool and serves as both an esthetic feature and provides water quality benefits by helping to settle out sediments and other nutrients prior to leaving the site. They have diverted 54 acres of drainage from Bellemeade and directed that into their basin.

He talked about improvements made at the academic core and how they provided extra parking and upgraded campus and parking lot lighting.

Glenn Price, presented a PowerPoint slide show and talked about the campus form district. He said the district is typically centered around a predominant function, and the Comprehensive Plan which mentions university buildings and office complexes, corporate headquarters and the like.

Some features of a Campus Form District are walkable areas. This site has pedestrian pathways leading into AB Sawyer Park.

Mr. Price said that another feature is multiple buildings, university partnership buildings or office buildings that are built by private developers.

He said they will have shared utilities, shared signage and significant buffering, particular along the edge of the City of Bellemeade.

Along the area which has been established, The Bellemeade Protection Area, a 400 foot wide strip a height limit is provided under the code. In that area they will be limited to 3 stories or 45 feet in height.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Mr. Price pointed out that as listed in the staff report, the proposal meets the guidelines and policies of the Comprehensive Plan and the proposed future development of the property meets the intent of the Campus Form District.

Roadways and utility easements have been dedicated and constructed on the site and the roadways provided additional routes for motorists more specifically, additional connectivity opportunities to avoid the major intersections.

He said traffic has continued to be a problem and they have agreed to a binding element that has been proposed and worked out in conjunction with the Metro Works Department and the Air Pollution Control Department.

Mr. Price explained how the development meets the guidelines such as compatibility and open space. He said they have also provided a 23 acre MSD easement that will remain open and not built. The 100 year flood plane will be predominantly protected in the MSD easement.

In addition to cross access easements for vehicular flow, sidewalks will be provided and bicycle storage facilities will be located throughout the campus.

The 23 acre MSD Easement is a retention basin and will remain a wet basin.

Binding Elements were discussed and both Mr. Price and the City of Bellmeade's representative, Steve Porter, have drafted their own binding elements.

Mr. Price said they are not able to agree on some of the binding elements. He continued that they are agreeable to some and one being that instead of providing ten days prior notice of a DRC meeting. He said they are agreeable to providing 30 days notice.

He said that the binding element relating to the 120 foot perimeter landscape buffer area, stating that the plantings, the berm which is irrigated and landscaped and the preservation of the mature tree canopy and that those trees shall remain with the exception of those trees that are dying, dead or diseased.

If agreed upon by the university and the City of Bellemeade, a pedestrian and bicycle passageway may be cut through right at a road called Charing Cross Road.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

In addition the building height maximum in the Campus Form District is 150 feet, except within the Bellemeade Protection Area where the limitation will be 3 stories or 45 feet in height.

He continued that number 4 deals with "Sidewalks along the Shelbyville Road frontage. At the time of the development of each site abutting Shelbyville Road, sidewalks shall be installed and maintained along Shelbyville Road to the extent that each such site abuts Shelbyville Road."

He said that they did not list binding element number 4, Whipps Mill Road and Hurstbourne Parkway, because they are also roads that abut the site and those sidewalks have already been constructed.

He said with regard to binding element number 5, there is a residential use limitation. "Except for university housing, no two-family or multi-family residential uses will be permitted on subject site." He further stated that the university has no plans for student housing on the site. They would like that option for the future.

Mr. Price referred to binding element number 6 and said that they have agreed to a limitation on external, construction hours within the 400 foot wide Bellemeade Protection Area. "No external building construction within the Bellemeade Protection Area shall be conducted during the hours of 9 p.m. to 7 a.m. Monday through Saturday; Sunday construction hours shall be limited to 10 a.m. to 4 p.m."

He said they don't intend to do any construction on Sundays, but it may be necessary to meet a construction deadline that might arise for some circumstance, such as weather related.

Binding element number 7, "Within the Bellemeade Protection Area, and except emergency fire alarms or the activation of other types of safety alarms and occasional cultural and musical events, no outdoor public address systems will be permitted."

Number 8, "Rooftop mechanical equipment. "Rooftop mechanical equipment that is located within the Bellemeade Protection Area shall be screened from properties located within the City of Bellemeade abutting the Subject Site."

Number 9, Ground-based mechanical equipment and building trash receptacles. All ground-based mechanical equipment and building trash receptacles

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

(excluding temporary construction waste receptacles) within the Bellemeade Protection Area shall be shielded or hidden from view from properties within the City of Bellemeade that abut the Subject Property.”

Number 10, “Stormwater runoff. Stormwater runoff exiting the Subject Property and entering the City of Bellemeade shall not exceed stormwater runoff volumes entering the City of Bellemeade from the Subject Property existing as of July 1, 2010.”

Number 11, “lighting limitations. Within the Bellemeade Protection Area, permanent parking lot lighting and permanent building mounted lighting which is designed to illuminate the ground parking lot areas, whether freestanding or attached, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground or otherwise down and away from the City of Bellemeade.” “Except for sites fronting on Shelbyville Road, lighted attached building signage within the Bellemeade Protection Area shall not be visible from the City of Bellemeade.”

Number 12, “Freestanding sign limitation. Except for development identification signs, leasing signs, wayfinding signs, or directional signs, freestanding signs shall be monument-style.”

Number 13, “The proposed development shall occur in phases. The first phase shall exist of approximately 300,000 square feet generally along the eastern boundary of the property adjacent to Hurstbourne Parkway, Weakley Way and Porter Place, north of the existing commercial development and south of the newly constructed Center of Predictive Medicine,” which is phase one.

“Phase 1 shall occur on approximately 20 acres and has a build-out forecasted date of 2016. The Traffic Impact Study dated February 2, 2010 and the Air Quality Analysis dated February 2, 2010, both prepared by OK4 Engineers, relate to Phase 1. Prior to or at the time of submittal of the development plan” for any subsequent phase of the development and updated trip generation, traffic impact study and air quality analysis, or additional analysis if warranted by change in development character, shall be provided in accordance with Metro Public Works and Kentucky Transportation Cabinet and Air Pollution Control District Requirements.”

“The development plan for any subsequent phase may be denied on the basis of an updated analysis provided as required by this binding element which reveals an increased, unacceptable level of service in any analyzed intersection without

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

reasonable, appropriate and feasible mitigation measures designed to offset traffic impacts as determined by Metro Public Works and the Kentucky Transportation Cabinet, which measures shall be implemented prior to completion of the proposed development as shown on the development plan.” He said this is a strict binding element but they agree.

He said Number 14, is a standard binding element, “The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in the development of the site shall advise them of the content of these binding elements.”

“These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during the development of the site, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in the development of the site shall be responsible for compliance with these binding elements.”

Commissioner Blake asked Mr. Price if he drafted the Demonstration of Appropriateness listed in the staff report.

Mr. Price said yes that was required and in essence that is the Justification Statement.

Commissioner Hamilton asked how a pedestrian who works in the park and lives in the City of Bellmeade would get from the City of Bellemeade to the business park without having to drive.

Mr. Dominik responded said that is part of the reason we crafted the binding element regarding the connection at Charing Cross.

Mr. Price said that at Whittington Parkway and Whipps Mill, the sidewalk is constructed to Whipps Mill. The difficulty is there are no sidewalks on Whipps Mill.

Commissioner Blake asked if there is going to be the sidewalk connection at Bellemeade.

Mr. Price said they have proposed the possibility of a connection. It would take an agreement between the city, the university and “Charing Cross.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Those who spoke neither for nor against (Other)

Steve Porter
2406 Tucker Station Road
Louisville, KY 40299

Larry Odom-Groh
Mayor of Bellemeade
206 Dorchester Road
Louisville KY 40223

Rich Heareth
600 North English Station Road
Louisville KY 40223

Testimony of those who spoke as other

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299, represented the City of Bellemeade. He said they want to establish some base binding elements and request adequate and sufficient notices of further proposed developments that come onto this property.

He said they would like to see a process where they know about the applications a little bit sooner than the 10 day notice requirement for the DRC meeting. He wants adequate notice so that they are able to be involved in the discussion of any future projects, from the beginning and would like to know about them as soon as the government knows about them. He has added a binding element related to this issue.

He said this is much more of a private development project and the university will get money. He said there is a possibility that private developers will be calling the shots on individual projects and individual parcels.

He handed out documents with all of the justifications, board resolutions, the history of the project, the Stones report, the original reports, Qk4 reports, traffic reports, etc.

He said there is not one mention of green development. There is one mention of lead development. He said he does not think there is a strong commitment to seek lead certification.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

He further contended that the University of Louisville recently tied with Berea College as Kentucky's top green school on the report card issued by the non-profit Sustainable Endowments Institute. Last year, President Ramsey signed the American College and University President's Climate Commitment, a campaign launched by more than 600 higher education institutions to curb global warming. The university has now hired a full-time sustainability coordinator.

He said all that they are asking that the university to live up to its green reputation. When they suggested a series of green stormwater reduction techniques, bioswales, shared parking, stack parking, rain gardens, pervious pavement, the university said, "No, we don't agree to any of that." They said it will be left up to the individual builders.

He said they suggested not allowing skylights to emit light pollutions and suggested eliminating noise pollution, the university rejected those ideas.

Mr. Porter went through the binding elements that Mr. Price handed out. He said they reject binding element number 1, which leaves out the requirement for a neighborhood meeting.

He said they can agree upon binding element numbers 2, 3, 4 and 5.

Number 6 was agreed to, however there is a word change which Mr. Price, Mr. Deutsch and Mr. Porter have agreed upon, which reads "No external building construction", they are changing that to "No external construction."

He further stated that they are in agreement with binding elements numbers 7, 8, 9 and 10. They also agree to numbers 12, 13, and 14.

They do not agree to binding elements numbers 1 and 11. He said they would like to add wording to binding element number 2 which restricts hours of operation for external construction only. They want hours of operation to be restricted to garbage collection and parking lot sweeping as well.

He would like binding element number 3 to read, "No skylights shall be allowed on any building on the subject property unless they are constructed or operated in a manner so that they do not emit any light or allow any light to be seen through them between dusk and dawn."

He continued; number 4 should read, "All exterior lighting on the subject property, including street lights, parking lot lighting and building lighting, whether

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

freestanding or attached, shall be fully shielded, utilize flat or hidden lenses that shall be pointed directly to the ground. No light sources or luminaries shall be visible from the street or any adjacent or adjoining property. Low-voltage landscape lighting shall be excluded from this requirement.”

Number 5, “No noise from mechanical systems, HVAC equipment, coolers, or similar permanent devices shall be audible beyond the property line along the western boundary of the property with the City of Bellemeade.”

He said that leaves numbers 1 and 6. He said number 1 says that “when any developer, whether it’s U of L or some private developer they’re working in conjunction with, makes a proposal of any kind to the government to the Planning Design Services, turns it into staff, that within two days we get a copy of it.” They want to be involved in the pre-application phase. They only want a copy of the application. If the development is in Bellmeade, they want a copy of the application given to everyone within 600 feet of the Bellmeade Protection Area.

He said “Number 6, we’re asking that no changes to these binding elements may be made without approval by the Louisville Metro Planning Commission and the Louisville Metro Council. This ordinance, this will have to be an ordinance through the Metro Council.”

He further stated that the Metro Council will adopt the binding elements and they will make a decision based partly on whether these binding elements are something they agree with or not.

He said they think that “they should have the right to approve or disapprove any changes that are made to binding elements rather than the process that is in the code no, which states that a 5% committee of this commission with ten days notice could change binding elements.”

He said Number 1 and Number 6 are procedural, and 2,3,4,5 are substantive. He is asking for approval to add those six and replace number 1 with his Number1 and replace the applicants’ Number 11 (a) with his Number 4 and add the others to the binding elements.

Larry Odom-Groh, Mayor of Bellemeade, 206 Dorchester Road, Louisville KY 40223 said he thinks this will be a good project, but they have a few concerns. He said they feel the binding elements that they’ve proposed are reasonable and would be a benefit to help maintain good relations with the university.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Commissioner Blake stated the proposed binding element number 1 where notification is being requested at the pre-application stage is a little premature. He asked Mr. Porter who he would expect to do the notification.

Mr. Porter replied, the developer and that could be clearly stated in the binding element and that within two days afterwards a copy would be submitted.

Commissioner Blake, so that would in essence be the applicant.

Rich Heareth, 600 North English Station Road, Louisville KY 40223 is neither for nor against the proposal. He said he would like time to have a traffic engineer review how this would affect his development. He said there are binding elements requiring significant road improvements at the corner of Hurstbourne and Dorsey. He wants to make sure that he has a fair amount of time to analyze any traffic studies.

REBUTTAL

Glen Price addressed Mr. Heareth's comments. He said that Mr. Heareth has a recapture binding element. It states that if he develops his property first and has to construct roadway improvements and there are other developments that contribute to the demand, would he be able to recapture the dollars spent.

He said after talking with Paula Wahl, traffic engineer, he does not believe that this development will impact Mr. Heareth's. He further stated that they would be willing to contribute in the pro rata cost sharing to the extent that a binding element would be worked at the time of the development plans or site plans, development plans in the future for each detailed phase.

Mr. Price addressed Mr. Porters concerns. He said that there is no way that the Planning Commission in February of 2010 can anticipate all the binding element requirements that are going to be necessary to protect Bellemeade as each development phase occurs.

He pointed out that the applicant has provided a 120 feet buffer, doubled the transition zone from 200 to 400 feet to proved a height limitation to 3 stories, or 45 feet.

He continued and said that Mr. Porter said that in 2001 the plan had been adopted by the board of trustees and had a two story limitation as opposed to the three story limitation in height requirements near the buffer zone. However, at that time they did not have in place the 120 foot setback area.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Mr. Price said that the ten days notice prior to DRC meeting is in agreement that is not a lot of notice. He said it can be agreed upon that Bellemeade be notified when there is a firm development proposal.

He said regarding binding element number 1, provides a bright line standard and is exactly what LD&T committee directed. Mr. Porter's binding element number 1 talks about preliminary applications and informal applications, but is not clear what that means. He said he does not think those are bright line standards and does not think that the 600 foot limitation is appropriate.

Mr. Price said the language that was proposed is exactly what staff asked with the exception that the 30 day notice provision instead of the 10 day notice provision for notification for any DRC.

He said Mr. Porter talked about the board of trustees resolution and the campus being turned into a revenue producing asset. He said that the university is a state funded institution, funded by taxpayer dollars. It is better for the taxpayers if the university can work with plans and builders to produce revenue assets.

Green development was also mentioned, whereby Mr. Price said that green development is a laudable idea, but should not be made a law. He further contended that when the Planning Commission and our legislative bodies are ready to mandate new requirements by law, then let's make it apply across the board.

Mr. Price said that Mr. Porter's binding element that mandates turning off the lights at certain times at night is not enforceable. Providing enforcement officers to run around the campus and make sure everyone turns out lights is an enforcement impossibility.

Mr. Price referred to green initiatives and said that the large stormwater retention basin acts as a settling basin, and therefore acts to protect water quality. He said it is not appropriate to make binding elements requiring rain gardens. That requirement should be something that is "across the board".

Commissioner Howard, asked for clarification from Mr. Price that he would not agree to Mr. Porter's binding element number 2 about the garbage and recyclables collection services.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Mr. Price responded that yes that is correct. The Land Development Code presently says that there can be no loading or unloading of trash receptacles between 10 p.m. and 7 a.m., so a binding element would not be needed. He further added that the only time a sweeper could come in would be after normal office hours, so that the parking lot could be navigated.

Commissioner Blake asked if the sidewalks along Shelbyville Road are non-negotiable.

Mr. Price said right now the funds would come out of the university's general fund and that would be a difficulty right now.

Mr. Dominik, responded and said that part of the reason the sidewalks have not yet been done is that there are some plans, maybe long-term for some widening along Shelbyville Road. The right of way may be granted at some further date. So without really knowing the confines of where the right of way is, it's very difficult to go ahead and construct the sidewalk now.

Mr. Deutsch, said they have committed to build sidewalks along Shelbyville Road. Now is not the proper time since they not sure what the state may require along Shelbyville Road regarding additional right of way.

Commissioner Carlson asked about binding element number 5 from Mr. Porter stating "No noise from mechanical systems, HVAC equipment, coolers, etc, shall be audible beyond the property line" around Bellemeade.

Mr. Price said there are two issues regarding that binding element. He said under the advice of staff, the appropriate time to consider binding elements relating to sound emanation and audibility is at the time of construction plan approval. That is a subjective standard and not a bright line standard. That should be addressed at DRC at the time of construction phase.

Mr. Porter said that there is good access regarding sidewalks. With regard to the lighting, they asked that the exterior be dimmed to the lowest level necessary for security after 9:00 at night. They asked for interior building lighting to be turned off or shaded or dimmed between the hours of 9 p.m. and 7 a.m.

He further stated that they are asking for pervious pavement and green ideas with regard to the parking lots to reduce stormwater runoff.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Mr. Porter said he thinks that the noise level request is reasonable, either it is audible or it is not.

He said they still want to know when a pre-application comes in and want a copy of it. He said they don't want to come to the meetings but just want a copy of the pre-application.

Commissioner Carlson said that Mr. Porter's binding element number 6 which addresses the request for binding elements to be approved by the Planning Commission and Metro Council and said that there are many steps and it would be difficult to add a binding element because of all the steps required.

Mr. Porter responded and said that the language says "No changes to these binding elements..." He said if you wanted to add binding elements that would be something new and not a change. He suggested that maybe the language should say no changes to these 20 binding elements, or however many you adopt.

He said the general feeling is that when a binding element is adopted, then six months later with ten days notices, they can be changed.

He added that his proposed binding element number 1 refers to giving notice regarding detailed district development plans, not about conditional use permits, variances, waivers, changes in binding element. He said it should include all of them.

He asked who would get notice of a change in binding elements?

Mr. Reverman said that under Land Development Code requirements, first tier adjoining property owners, anyone who spoke at the Planning commission public hearing and interested parties registered within the council district gets noticed.

Any amended binding elements get ten days notice. He further stated that staff has the ability to modify some binding elements, but those have to be measurable by a percentage, less than a 25% change, then staff has the ability to modify a binding element. If it can't be measured by a percentage change, then it automatically has to go to a committee of the Planning Commission with ten days notice.

Mr. Porter responded and said they just want to know about it when it first comes in.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Mr. Reverman said that regarding the change to some of these binding elements, they don't necessarily require review by a staff member at Planning and Design Services. Once the request comes in, a change to any one of these binding elements would generally just be noticed immediately upon being received, but the requirement is ten days notice.

A copy and original of the court reporter's written transcript of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the written deposition or to obtain a copy.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

ZONING

On a motion by Commissioner Blake the following resolution was adopted.

WHEREAS, the Planning Commission finds that the proposed zone change from R-4 Single Family to OR-3 Office/Residential conforms to KRS 100.213 because it is in agreement with the adopted Comprehensive Plan for Louisville and Jefferson County, Kentucky, within which this property lies; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 1.B.11, Campus Form District Goal H1 and Objective H1.1, Community Design Goal H2 and Objectives H2.2, H2.3, H2.4, H2.5 and H2.6, Land Use Goal H3 and Objectives H3.2 and H3.3, and People, Jobs and Housing Transportation and Infrastructure Goal K4 and Objective K4.1 because the site lies wholly within the Campus Form District; because the 189.6-acre site will comprise the University of Louisville's ShelbyHurst Research and Office Park and is intended to contain a mixture of uses which are both compact and walkable; because there will be multiple buildings with gathering areas, open space, internally shared parking, and sidewalks and bikeways on all boulevards within the development; because a 120-foot buffer extends along the entire west side of the property; because a 23-acre Metropolitan Sewer District ("MSD") easement was granted to MSD in 1998 to provide regional stormwater benefit to the 3200-acre downstream watershed; because the proposal will contain a mixture of uses "clustered for a single or predominant function" (i.e., the 20-acre academic core containing University of Louisville ("University") academic facilities together with future academic facilities anticipated to be built will advance the

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

University's academic mission and provide synergistic opportunities for students and faculty working in conjunction with private sector employers on the Subject Site); and because fifty-foot buffers are located along the Hurstbourne Parkway and Shelbyville Road frontages of the property; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policies 2.1, 2.4, 2.5, 2.12, 2.13, 2.14, 2.15 and 2.16, because the development of the site will constitute an activity center because it comprises an area of concentrated, mixed-use activity and will consist of a mix of academic, research and office buildings designed to minimize land consumption and reduce vehicle trips; because the academic core of the site will form the central focal point of the development; because shared parking and access will be available throughout the site at appropriate locations in relation to the use they serve; because access and parking will be situated so as to provide for safe and efficient movement of vehicles, pedestrians and bicycles throughout the campus; because all necessary utilities are available on-site and are situated underground within utility easements; and because alternative transportation modes are encouraged through the provision of sidewalks throughout the development, bikeways on major roads and bicycle storage facilities located either within the buildings or via bicycle storage racks; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.5, 3.6, 3.7, 3.8, 3.9, 3.11, 3.12, 3.21, 3.22, 3.23, 3.24 and 3.28, because the development of this site will be consistent with its intended function under Campus Form District guidelines; because the development will be compatible with the scale and site design of nearby nonresidential development; because the development of the Shelby Campus property for office and research uses will be an appropriate transition use between the higher intensity retail/commercial uses along Hurstbourne Parkway to the east and the single family residential uses in the city of Bellemeade to the west; because adjacent residential development is protected through the use of substantial buffers, including a 120-foot buffer which provides a suitable transition area to protect homes on Dorchester Road in the city of Bellemeade; because building heights will be limited to five (5) stories, except within the "Bellemeade Protection Area," an area extending four hundred (400) feet from the Bellemeade corporate line (the western edge of the Subject Site), where the maximum height will be three (3) stories; because architectural controls will be established to govern the design and materials of each building via Master Declaration of Restrictions; because building materials will be determined at the

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

time of development of each site or phase; because the first 300,000 square feet of office development will not introduce unanticipated traffic volumes into the transportation network in the vicinity of the site; because development phases following the first 300,000 square feet will be evaluated for traffic and air quality impacts; because unacceptable sound impacts will not be caused by the proposed development; because lighting will be appropriate for campus development and will conform to lighting limitations in the Land Development Code; because the development will not be a source of visual nuisance; because Shelbyville Road and Hurstbourne Parkway are existing transit routes for the Transit Authority of River City ("TARC"); because all buildings and facilities on-site will be accessible to persons with disabilities and will comply with all local, state and federal laws applicable to persons with disabilities; because appropriate transitions and buffers presently exist, and will exist in the future, as necessary, between sites, phases and adjacent uses; and because setbacks, lot dimensions, building heights and signage will be appropriate for the campus; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder, including Policies 4.1, 4.4, 4.5, 4.6, 4.7 and 4.9, because a 9.3-acre open space exists along the entire western buffer strip that is 120-feet in width; because a 23-acre MSD easement area to the north of the site will remain open and unbuilt; because open space will be considered throughout the development of each site or phase; because maintenance of open space will be provided for through Master Declaration of Restrictions; and because bikeways constructed along the major streets of the development will enable access to the new area bikeway located on Whipps Mill Road and active recreational opportunities at A. B. Sawyer Park; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 5.1, 5.2 and 5.6, and Social and Cultural Resources Goal D1 and Objective D1.1 because the 100-year flood plain as it exists on-site will be predominantly protected in the MSD easement; because an existing cemetery on the western side of the property will be protected and appropriate access to the cemetery will be provided; because there are no steep or severe slopes on site; because on-site soils drain well; and because no soils on-site are classified as wet soils; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Economic Growth and Sustainability Guideline 6 and all applicable Policies adopted thereunder, including Policy 6.2, because Core Graphic 10 designates

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Hurstbourne Parkway and Shelbyville Road as major arterial roadways and designates Whipps Mill Road as a primary collector roadway; because the University of Louisville contributed to the significant economic growth and development of the Hurstbourne Corridor through the dedication of approximately 8 acres of right-of-way and associated easements for the construction of N. Hurstbourne Parkway in 1987; because the Shelby Campus property received no access or other direct benefit from this dedication; because the University has provided transportation connectivity between Shelbyville Road, Whipps Mill Road, and Hurstbourne Parkway via the newly constructed N. Whittington Parkway, Porter Place, Weakley Way, and Hurstbourne Trace, and although these roads will remain privately owned and maintained and will therefore not burden Metro Public Works, they are available for public use and have been constructed to exceed minimum construction standards; because these internal roadways provide an immediate community transportation benefit by providing alternative traffic routes for motorists and reducing traffic at the Shelbyville Road/Hurstbourne Parkway intersection since they were constructed well in advance of the first office buildings on the Subject Site; and because the University granted a 23-acre easement to MSD, which enabled MSD to construct a large retention basin at Whipps Mill Road to drain a watershed consisting of 3,200-acres; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 7.1, 7.2, 7.3, 7.4, 7.6, 7.8, 7.10, 7.12, 7.13, 7.14, 7.16 and 7.19, and Pattern of Development Goal E3 because when requested by the City of Louisville Department of Public Works, a right-of-way addition to Whipps Mill Road and US 60 (Shelbyville Road) will be provided in a timely manner (such action must be approved pursuant to state legislation as required by law); because the Traffic Impact Study ("Traffic Impact Study") prepared by Qk4 and dated February 2, 2010 concludes on page 38:

"[o]verall, traffic added to the network for the 2016 Build scenario causes little impact to the study area, which includes the roads constructed [within Shelby Campus] in 2009. The 2009-constructed roads have benefited the traveling public by enhancing network connectivity, thereby providing route options and reducing traffic bottlenecks, most notably at the US 60 (Shelbyville Road)/KY 1747 (N. and S. Hurstbourne Parkway) intersection. This conclusion is supported by the January 2010 turning movements data, provided in Section 6.0...and the December 2009 average daily volume counts on the internal campus roads...

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Because of their projected benefit to the traffic network, these new connections – specifically the east-west connections linking Whipps Mill Road and N. Hurstbourne Parkway – were supported in the 2006 Hurstbourne Area Transportation Study and Small Area Plan and the 2008 TIS [Transportation Impact Study] provided to KYTC [Kentucky Transportation Cabinet]. These new connections are also anticipated to alleviate traffic impacts from the proposed 300,000 square feet of development. In summary, the LOS [level of service] of each study area intersection with the proposed traffic from the 300,000 square feet of development are, in most cases, projected to remain at current levels;”

because a transit shelter is presently located on Shelbyville Road within the development site; because the University’s over \$10 million investment - which includes \$5.7 million from the Kentucky Transportation Cabinet - in roadway and associated infrastructure improvements has served to mitigate the impact of the proposed office and research park development on surrounding roadways; because the University’s dedication of approximately 8 acres of right-of-way and associated easements for the construction of Hurstbourne Parkway in 1987 has provided community-wide transportation benefit and capacity; because the Traffic Study and February 2010 Traffic Counts prepared by Qk4 supports the conclusions from the 2006 Hurstbourne Traffic Impact Study and 2007 Small Area Plan [adopted by the Louisville Metro Council on October 1, 2007]; because the 2007 Small Area Plan states at Chapter 4, pp. 25 – 26:

“The benefits of these connections are the connectivity and alternative route options which lower the demand at the intersection of Shelbyville Road and Hurstbourne Parkway. According to the KIPDA’s [KIPDA is the Kentuckiana Regional Planning & Development Agency] travel demand model, the eastbound volumes on Shelbyville Road at Hurstbourne Parkway will decrease by about 1000 cars per day;”

because adequate access to surrounding developments is provided on-site, although no access is planned into the developed residential areas of the City of Bellemeade to the west of the site; because the development will provide adequate parking throughout; because the proposal has been approved by the Louisville Department of Public Works; because joint and cross access agreements will be provided as necessary to ensure adequate vehicular flow among sites within the development; because internal roadway connections and

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

median openings are spaced in anticipation of future development; and because the roadways presently in place provide for uniform access and circulation; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 8.1, 8.2, 8.4, 8.6, 8.7, 8.9, 8.10, 8.11 and 8.12, because the location, size and multi-modal function of major and minor roadways within the development are appropriate for the Campus Form District in which the site lies; because street designs include significant landscaping and tree planting along all boulevards within the development, including within median strips; because Hurstbourne Parkway is a designated parkway; because the development observes parkway standards on both its Hurstbourne Parkway frontage and Shelbyville Road frontage; and because adequate sight distance has been provided on all existing roadways and will be provided during the development of each site or phase; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policies 9.1, 9.2, 9.3 and 9.4, Moving People and Goods Goal A1, Goal A2 and Objectives A2.1 and A2.2, Bicycle and Pedestrian Circulation Plan Planning Goal H1, Goal H2 and Objectives H2.2 and H2.5, Safety Goal H3 and Objective H3.1, Promotion Goal H4, Site Design Standards for Alternative Transportation Modes Goal I1 and Objective I1.1, Goal I2 and Objective I2.1, Goal I3 and Objective I3.1, Goal I4 and Objective I4.1, Goal I5 and Objective I5.1, and Goal I7 and Objective I7.1 because 5-foot wide sidewalks are located on both sides of all streets within the development; because both Shelbyville Road and Hurstbourne Parkway adjacent to the site are transit routes; because a 10-foot wide multi-use path was constructed along the Hurstbourne Parkway frontage linking the office and research park with the Center of Predictive Medicine to the north and existing retail uses to the south; because sidewalks and bikeways presently exist on Whipps Mill Road frontages of the site, and sidewalks will be constructed along Shelbyville Road as each abutting site on the Shelbyville Road frontage is developed; because an existing transit shelter is located on-site on Shelbyville Road; and because 6-foot wide bikeways are located on each major street in the development, and bicycle storage facilities will be located throughout the campus, either within buildings or at bike racks, or both; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 10.1, 10.2, 10.3, 10.4, 10.6, 10.7, 10.10 and 10.11,

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

and Water Goal B1 because the development of the ShelbyHurst Research and Office Park minimizes the potential for the impacts of flooding and effectively manages stormwater runoff; because the existing Whipps Mill basin contained within a 23-acre easement granted to MSD in 1987 by the University provides regional stormwater detention and flood control benefits for a 3200-acre downstream watershed; because the newly constructed stormwater retention pond constructed along Whipps Mill Road has been sized to accommodate the fully-developed runoff from the office and research park; because storm sewers were designed throughout the development and have been sized appropriately for the full development of the site as an office park; because the storm sewers discharge into a newly constructed stormwater retention facility at the low end of the system along Whipps Mill Road; because a drainage corridor is located within the 120-foot buffer along the western (Bellemeade) perimeter of the property that diverts 54 acres of drainage, which previously impacted the northwest corner of the Bellemeade neighborhood by causing periodic and seasonal flooding prior to the construction of this improvement; because no buildings are proposed to be located within the 100-year FEMA regulatory floodplain; because the proposal has received the approval of MSD; because there is no impact to existing stream valleys and no disturbance to jurisdictional waters of the United States as defined by the U.S. Army Corp of Engineers; because construction plans were reviewed and approved by MSD prior to construction; because the development of individual sites and phases of development will involve a public review process and will similarly be reviewed by MSD; because detention facilities on site will adequately accommodate stormwater from the site, based on a fully developed watershed; and because the on-site drainage system will likewise accommodate the “through” drainage system of water flows on-site and off-site, and peak stormwater runoff rates post-development will not exceed pre-development rates; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Water Quality Guideline 11 and all applicable Policies adopted thereunder, including Policies 11.3, 11.4, 11.6 and 11.7, and Land Goals E1, E2 and E3 because a sediment and erosion control plan will be implemented for the development of each site or phase; because the Blue Ridge Branch of the Middle Fork of Beargrass Creek will be protected by the MSD easement as it meanders through the site; and because karst features on site will be carefully addressed during the development of each site or phase; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 12.1, 12.2, 12.3, 12.5, 12.6, 12.7 and 12.8, and Air Goal C1 because an

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

Air Quality Analysis prepared by Qk4 and dated February 2, 2010, concludes on page 7:

“the additional traffic generated by the proposed development will not contribute to exceedances of the one-hour or eight-hour standards for carbon monoxide. For the future build-out year (2016), CO concentrations are predicted to generally decrease or remain the same compared to existing conditions at the intersection of Hurstbourne Lane and Shelbyville Road. For some of the receptors along the southbound Hurstbourne Lane approach to the intersection, however, CO concentrations are predicted to increase over existing conditions, although they will remain below the National Ambient Air Quality Standards;”

because Shelbyville Road and Hurstbourne Parkway are transit routes; because the alternative routes provided for through the office and research park reduce the amount of delay at the Shelbyville Road and Hurstbourne Parkway intersection and therefore reduce the emission affects of idling engines; because an existing transit shelter is located on-site on Shelbyville Road; and because sidewalks and bikeways are located throughout the development and are situated to encourage the use of these alternate modes of transportation; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 13.1, 13.2, 13.4, 13.5, 13.6 and 13.7, Habitat and Biodiversity Goal F1 and Objective F1.1 and Goal F2 because a street tree plan for the entire project has been implemented; because street trees have been located on either side and within the medians of boulevards; because native plant species will be installed; because a planting and buffering plan along Shelbyville Road and Hurstbourne Parkway has been implemented; because an adequate tree canopy will be provided for the campus; because a 120-foot landscape buffer has been provided along the western boundary of the property with the city of Bellemeade, which is 6 times the width currently provided for in the Metropolitan Land Development Code (the “LDC”); because this 120-foot buffer preserves an existing mature line of deciduous trees which provides substantial vegetative buffering; because the 12-foot buffer provides for a 6-foot tall irrigated berm which will be planted with 3.5 times the amount of plant material required by the LDC; and because the 23-acre MSD easement is a no-build area containing an abundance of trees; and

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

WHEREAS, the Planning Commission further finds that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 14.2, 14.3, 14.4, 14.6 and 14.7, because the proposal has adequate service for all necessary utilities; because a common utility corridor exists in the development that includes gas, electric, water, telephone, cable and telecommunications; because an adequate water supply for domestic and fire-fighting purposes serves the site; and because new utilities have been located underground and have been situated where recommended by each utility for appropriate maintenance and repair access; and

WHEREAS, the Planning Commission further finds that the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9, because adequate fire fighting services will be provided by the Middletown Fire Protection District; and

WHEREAS, the Planning Commission further finds that all necessary utilities, including gas, electric, water, telephone, cable and telecommunications, presently exist on-site, and essential public services, including public transit, bikeways and sidewalks, presently serve the site as described in these Findings; and

WHEREAS, the Planning Commission further finds that the proposal conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan, now therefore be it.

RESOLVED, that the Louisville Metro Planning Commission does hereby, **RECOMMEND** to the legislative council of Louisville Metro government that the change in zoning from **R-4 Single-Family Residential to OR-3, Office/Residential**, on property located at 100 ,310 & 312 N. Whittington Parkway, 950 Hurstbourne Parkway, be **APPROVED**.

The vote was as follows:

YES: Commissioners Abstain, Carlson, Blake, Howard, Storm, Tomes, and Hamilton.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Wells-Hatfield and, Proffitt.

ABSTAINING: No one.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

DEVELOPMENT PLAN

On a motion by Commissioner Blake, the following resolution was adopted.

Now therefore be it.

RESOLVED, That the Louisville Metro Planning Commission does hereby **APPROVE** the General District Development Plan **SUBJECT** to the following binding elements with the binding elements submitted by the applicant as modified during our discussion this evening and:

Binding Elements

1. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a Detailed District Development Plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.

Notice of all Detailed District Development Plans, Revised Detailed District Development Plans, Amendment to General Plan Binding Elements, Amendment to Detailed Plan Binding Elements, Conditional Use Permits, Waivers, and Variances shall be sent at least 30 days prior to a hearing by the Planning Commission, Board of Zoning Adjustment, or Committee thereof, except for Revised Detailed District Development Plans and Amendment to Detailed Plan Binding Elements that meet the criteria for approval by the Planning Director. This notice requirement shall include notice to the mayor of the City of Bellemeade.

2. **120-foot perimeter Landscape Buffer Area.** A 120 foot Landscape Buffer Area shall be provided along the west property line abutting properties within the city of Bellemeade, as shown on the General District Development Plan.
 - (a) The 120-foot perimeter landscape buffer area within the Bellemeade Protection Area [see Bellemeade Protection Area Exhibit] shall consist of (i) a minimum of 10.7 trees per 100 linear feet (a minimum of 353 planted trees) and a 6-foot high landscaped/irrigated berm, and (ii) the preservation of the existing mature tree canopy except to the extent trees are dead, diseased or hazardous.
 - (b) The 120-foot perimeter landscape buffer area shall be maintained by the University of Louisville Foundation, Inc., its successor in interest or designee,
 - (c) If agreed upon by the owner of Subject Property and the city of Bellemeade, a pedestrian and bicycle passageway may be cut through the 120-foot perimeter landscape buffer area referred to in (a) for access directly to the city of Bellemeade at Charing Cross Road.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

3. **Building height maximum.** (a) Except as provided for in (b) hereof and excluding walk-out basements or underground parking, no building on Subject Property shall exceed five (5) floors or ninety (90) feet in height.

(b) No portion of any building within the Bellemeade Protection Area shall exceed three (3) stories or forty-five (45') feet in height.

(c) Building height shall be determined pursuant to the Land Development Code.
4. **Sidewalks along Shelbyville Road frontage.** At the time of development of each site abutting Shelbyville Road, sidewalks shall be installed and maintained along Shelbyville Road to the extent each such site abuts Shelbyville Road.
5. **Residential limitation.** Except for university housing, no two-family or multi-family residential uses shall be permitted on the Subject Property.
6. **Limitation of external construction hours in Bellemeade Protection Area.** No external building construction within the Bellemeade Protection Area shall be conducted during the hours of 9 PM – 7 AM Monday through Saturday; Sunday construction hours shall be limited to 10 AM – 4 PM.
7. Within the Bellemeade Protection Area, and except for (i) emergency fire alarms or activation of other safety alarms, and (ii) occasional cultural or musical events, no outdoor public address systems shall be permitted.
8. **Rooftop mechanical equipment.** Rooftop mechanical equipment located in the Bellemeade Protection Area shall be screened from properties within the city of Bellemeade abutting the Subject Site.
9. **Ground-based mechanical equipment and building trash receptacles.** All ground-based mechanical equipment and building trash receptacles (excluding temporary construction waste receptacles) within the Bellemeade Protection Area shall be shielded or hidden from view from properties in the city of Bellemeade that abut the Subject Property.
10. **Stormwater runoff.** Stormwater runoff exiting the Subject Property and entering the city of Bellemeade shall not exceed stormwater runoff volumes entering the city of Bellemeade from the Subject Property existing as of July 1, 2010.
11. **Lighting limitation.** (a) Within the Bellemeade Protection Area, permanent parking lot lighting and permanent building-mounted lighting designed to illuminate the ground and parking lot areas, whether freestanding or attached, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground or otherwise down and away from the city of Bellemeade.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

- (b) Except for sites fronting on Shelbyville Road, lighted attached building signage within the Bellemeade Protection Area shall not be visible from the city of Bellemeade.
- 12. **Freestanding sign limitation.** Except for development identification signs, leasing signs, wayfinding signs, construction-related signs, traffic-related signs or directional signs, freestanding signs on the Subject Property shall be monument-style.
- 13. **Traffic and Air Quality.** The proposed development shall occur in phases. The first phase shall consist of approximately 300,000 square feet generally along the eastern boundary of the property adjacent to Hurstbourne Parkway (KY 1747), Weakley Way and Porter Place, north of the existing commercial development and south of the newly constructed Center of Predictive Medicine ("Phase 1"). Phase 1 shall occur on approximately 20 acres of the property and has a forecasted build-out date of 2016. The Traffic Impact Study dated February 2, 2010 and the Air Quality Analysis dated February 2, 2010, both prepared by QK4 Engineers, relate to Phase 1. Prior to or at the time of the submittal of a development plan for any subsequent phase of the development, an updated trip generation, traffic impact study and air quality analysis, or additional analysis if warranted by change in development character, shall be provided in accordance with Metro Public Works ("MPW") and Kentucky Transportation Cabinet and Air Pollution Control District requirements. The development plan for any subsequent phase may be denied on the basis of an updated analysis provided as required by this binding element which reveals an increased, unacceptable level of service at any analyzed intersection without reasonable, appropriate and feasible mitigation measures designed to offset adverse traffic impacts as determined by MPW and the Kentucky Transportation Cabinet, which measures shall be implemented prior to completion of the proposed development as shown on the development plan.
- 14. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- 15. A sidewalk along Whipps Mill Road from Whittington Parkway west to the extent the subject site has frontage on Whipps Mill Road shall be constructed within one year of approval of the change in zoning by the Louisville Metro Council.

The vote was as follows:

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

CASE 13644

YES: Commissioners Abstain, Carlson, Blake, Howard, Storm, Tomes, and Hamilton.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Wells-Hatfield and, Proffitt.

ABSTAINING: No one.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2010
Night Hearing**

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 9:43 p.m.

Chairman

Division Director